

**BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Petition For  
Reinstatement of License of:

OAH No. 2010090292

EDWARD CONTRERAS,

LVN No. VN 186745 (Surrendered)

Petitioner.

**DECISION**

This matter was heard by a quorum of the Board of Vocational Nursing and Psychiatric Technicians on September 15, 2010, in Los Angeles, California. Administrative Law Judge Humberto Flores from the Office of Administrative Hearings presided.

M. Travis Peery, Deputy Attorney General, represented the California Department of Justice. Edward Contreras (Petitioner) appeared personally and represented himself.

Evidence was received and the matter was submitted for decision. The Board of Vocational Nursing and Psychiatric Technicians (Board) finds as follows:

**FACTUAL FINDINGS**

1. The Board issued Vocational Nurse License No. VN 186745 to Petitioner on December 16, 1998.

2. In 2005, the Executive Officer of the Board issued an Accusation alleging that Petitioner, while providing care for a patient with amyotrophic lateral sclerosis (ALS), repeatedly fondled the patient's breasts, and on five occasions placed the patient's hand on his penis.

3. On August 31, 2006, Petitioner surrendered his vocational nurse license pursuant to Stipulated Surrender of License and Order in case number 6847. Pursuant to the Order, Petitioner agreed to pay costs of investigation and enforcement totaling \$4,812.50 upon reinstatement of his license.

4. In surrendering his license, Petitioner stipulated that the “charges in the Accusation, if proven at hearing, would constitute cause for discipline of his license.”<sup>1</sup> (Emphasis added). It is noted however, that in a reinstatement proceeding, the charges and allegations shall be deemed to be true and correct.

5. Petitioner surrendered his license upon the advice of counsel. The allegations were never formally adjudicated and no criminal charges were ever filed against Petitioner for the acts alleged in the Accusation.

6. On or about May 24, 2010, Petitioner filed a Petition for Reinstatement with the Board.

7. Petitioner testified credibly and with a respectful demeanor while questioned at the hearing. He testified that he, his wife and family were devastated at the events which resulted in his license surrender. Petitioner called a number of witnesses who testified on his behalf, including family members. They all testified that Petitioner has dedicated his life to helping people in need and that the allegations simply do not reflect the manner in which he has lived his life.

8. Petitioner has been actively involved in church activities at the Calvary Chapel in Greenwood, California. These activities include the children’s ministry, the weekly food distribution program which serves families in the community, short term missionary service in Mexico, and short term missionary service for Hurricane Katrina victims. Petitioner introduced letters from the Pastor and the Associate Pastor of the Calvary Chapel, which corroborate the testimony at the hearing regarding Petitioner’s church related activities.

9. Petitioner presented numerous letters which discuss his caring and compassionate attitude towards others. Susan C. wrote a letter detailing Petitioner’s care of her disabled son. She stated that Petitioner helped her son with toileting, bathing and diapering. He also fed her son via a gastric tube. Ms. C. attested that she trusted Petitioner with her son’s most intimate care.

## **LEGAL CONCLUSIONS**

1. Petitioner has presented substantial evidence of rehabilitation as set forth in Factual Findings 6, 7 and 8. Based on all of the facts and circumstances of this case, the public would be adequately protected by reinstating Petitioner’s Vocational Nurse License under appropriate terms and conditions.

---

<sup>1</sup> The Stipulated Surrender, in the section entitled culpability, states: “Respondent admits that the charges listed in the Accusation, if proven at hearing, would constitute cause for discipline of his license, and hereby surrenders his Vocational Nurse License No. VN 186745 for the Board’s formal acceptance. Respondent further acknowledges that his actions toward patient L.N. could reasonable have been interpreted as improper.”

2. Cause exists, under Business and Professions Code section 2878.7, to grant the Petition for Reinstatement of a Revoked License. However, any license issued to under a probationary status with appropriate terms and conditions.

## **ORDER**

The Petition for Reinstatement of a Revoked License submitted by Edward Contreras is granted, however, the license is granted under a probationary basis for a period of three years on the following conditions:

### **1. PSYCHIATRIC/PSYCHOLOGICAL EVALUATION**

**Prior to resuming practice**, and no later than 60 days from the effective date of this decision, Petitioner shall submit to a psychiatric/psychological evaluation. The evaluation shall be performed by a psychiatrist licensed in California and Board certified in psychiatry, or by a clinical psychologist licensed in California. This evaluation shall be for the purpose of determining Petitioner's current mental, psychological and emotional fitness to perform all professional duties with safety to self and to the public. Petitioner shall provide the evaluator with a copy of the Board's Disciplinary Order prior to the evaluation. The cost of such evaluation shall be paid by the Petitioner.

Petitioner shall cause the evaluator to submit to the Board a written report concerning Petitioner's status and progress as well as such other information as may be requested by the Board. This report shall be submitted in a format acceptable to the Board within ninety (90) days from the effective date of the Decision.

If the evaluator finds that Petitioner is not psychologically fit to practice safely, or can only practice with restrictions, the evaluator shall notify the Board, in writing, within five (5) working days. The Board shall notify the Petitioner in writing of the evaluator's determination of unfitness to practice and shall order the Petitioner to cease or restrict licensed activities as a condition of probation. Petitioner shall comply with this condition until the Board is satisfied of Petitioner's fitness to practice safely and has so notified the Petitioner. Petitioner shall document compliance in the manner required by the Board.

If the evaluator finds that psychotherapy is required, Petitioner shall participate in a therapeutic program at the Board's discretion. The cost of such therapy shall be paid by the Petitioner.

### **2. TAKE AND PASS LICENSURE EXAMINATION**

Prior to resuming practice, Petitioner shall take and pass the licensure exam currently required of new applicants within two (2) years from the effective date of this decision. Petitioner shall pay the established examination fees.

This probationary period shall not commence until Petitioner has successfully passed the licensure examination and a license is issued by the Board.

**3. OBEY ALL LAWS**

Petitioner shall obey all federal, state and local laws, including all statutes and regulations governing the license. Petitioner shall submit, in writing, a full and detailed account of any and all violations of the law, including alleged violations, to the Board within five (5) days of occurrence.

To ensure compliance with this condition, Petitioner shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within thirty (30) days of the effective date of the decision, unless the Board determines that fingerprints were previously submitted by the Petitioner to the Board.

Petitioner shall also submit to the Board a recent 2" x 2" photograph of himself within thirty (30) days of the effective date of the decision.

If Petitioner is under a criminal court order, including probation or parole, and the order is violated, it shall be deemed a violation of these probation conditions.

**4. COMPLIANCE WITH PROBATION PROGRAM**

Petitioner shall fully comply with the conditions of probation established by the Board and shall cooperate with representatives of the Board in its monitoring and investigation of the Petitioner's compliance with the Probation Program.

Upon successful completion of probation, the Petitioner's license will be fully restored.

**5. SUBMIT WRITTEN REPORTS**

Petitioner shall submit or cause to be submitted, under penalty of perjury, any written reports, declarations and verification of actions as required by the Board or its representatives. These reports or declarations shall contain statements relative to Petitioner's compliance with all the conditions of the Board's Program. Petitioner shall immediately execute all release of information forms as may be required by the Board or its representatives.

In the first report, Petitioner shall provide a list of all states and territories where he has ever been licensed as a vocational/practical nurse, psychiatric technician, or registered nurse. Petitioner shall provide information regarding the status of each license and any change in license status during the period of probation. Petitioner

shall inform the Board if he applies for or obtains a new nursing or psychiatric technician license during the period of probation.

Petitioner shall provide a copy of the Board's decision to the regulatory agency in every state and territory in which he has applied for or holds a vocational/practical nurse, psychiatric technician and/or registered nurse license.

**6. NOTIFICATION OF ADDRESS AND TELEPHONE NUMBER CHANGE(S)**

Petitioner shall notify the Board, in writing, within five (5) days of any change in address or telephone number(s).

Petitioner's failure to claim mail sent by the Board may be deemed a violation of these probation conditions.

**7. NOTIFICATION OF RESIDENCY OR PRACTICE OUTSIDE OF STATE**

Petitioner shall notify the Board, in writing, within five (5) days, if he leaves California to reside or practice in another state. Periods of residency or practice outside of California shall not apply toward a reduction of this probation time period. If Petitioner resides or practices outside of California, the period of probation shall be automatically extended for the same time period he resides or practices outside of California. The Petitioner shall provide written notice to the Board within five (5) days of any change of residency or practice.

Petitioner shall notify the Board, in writing, within five (5) days, upon his return to California.

**8. MEETINGS WITH BOARD REPRESENTATIVE(S)**

Petitioner shall appear in person at meetings as directed by the Board or its designated representatives.

**9. NOTIFICATION TO EMPLOYER(S)**

When currently employed or applying for employment in any capacity in any health care profession, Petitioner shall notify his employer of the probationary status of Petitioner's license. This notification to the Petitioner's current health care employer shall occur no later than the effective date of the Decision. The Petitioner shall notify any prospective health care employer of his probationary status with the Board prior to accepting such employment. At a minimum, this notification shall be accomplished by providing the employer or prospective employer with a copy of the Board's Accusation and Disciplinary Decision.

The Health Care Profession includes, but is not limited to: Licensed Vocational Nurse, Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency Medical Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary technical health care positions.

Petitioner shall cause each health care employer to submit to the Board all performance evaluations and any other employment related reports as required by the Board. Petitioner shall notify the Board, in writing, of any difficulty in securing employer reports within five (5) days of such an event.

Petitioner shall notify the Board, in writing, within five (5) days of any change in employment status. Petitioner shall notify the Board, in writing, if he is terminated or separated, regardless of cause, from any nursing or health care related employment with a full explanation of the circumstances surrounding the termination or separation.

#### **10. EMPLOYMENT REQUIREMENTS AND LIMITATIONS**

Petitioner shall work in his licensed capacity in the state of California. This practice shall consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.

Petitioner shall not work for a nurses' registry or in any private duty position, a temporary nurse placement agency, as a faculty member in an accredited or approved school of nursing, or as an instructor in a Board approved continuing education course except as approved, in writing, by the Board. Petitioner shall work only on a regularly assigned, identified and predetermined work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

#### **11. SUPERVISION REQUIREMENTS**

Before commencing or continuing employment in any health care profession, Petitioner shall obtain approval from the Board of the supervision provided to the Petitioner while employed.

Petitioner shall not function as a charge nurse (i.e., work in any healthcare setting as the person who oversees or directs licensed vocational nurses, psychiatric technicians, certified nursing assistants or unlicensed assistive personnel) or supervising psychiatric technician during the period of probation except as approved, in writing, by the Board.

//

//

**12. COMPLETION OF EDUCATIONAL COURSE(S)**

Petitioner, at his own expense, shall enroll and successfully complete a course(s) substantially related to the violation(s) no later than the end of the first year of probation.

The coursework shall be in addition to that required for license renewal. The Board shall notify the Petitioner of the course content and number of contact hours required. Within thirty (30) days of the Board's written notification of assigned coursework, Petitioner shall submit a written plan to comply with this requirement. The Board shall approve such plan prior to enrollment in any course of study.

Upon successful completion of the course, Petitioner shall submit "original" completion certificates to the Board within thirty (30) days of course completion.

**13. MAINTENANCE OF VALID LICENSE**

Petitioner shall, at all times, maintain an active current license with the Board including any period of suspension.

If an initial license must be issued (Statement of Issues) or a license is reinstated, probation shall not commence until a license is issued by the Board. Petitioner must complete the licensure process within two (2) years from the effective date of the Board's decision.

Should Petitioner's license expire, by operation of law or otherwise, upon renewal or reinstatement, Petitioner's license shall be subject to any and all conditions of this probation not previously satisfied.

**14. COST RECOVERY REQUIREMENTS**

Petitioner shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$4,812.50.

Petitioner shall be permitted to pay these costs in a payment plan approved by the Board with payments to be completed no later than three months prior to the end of the probation period. The filing of bankruptcy by Petitioner shall not relieve Petitioner of his responsibility to reimburse the Board for its investigation and prosecution costs. Failure to make payments in accordance with any formal agreement entered into with the Board or pursuant to any Decision by the Board shall be considered a violation of probation.

If Petitioner has not complied with this condition during the probationary period, and Petitioner presents sufficient documentation of his good faith effort to comply with this condition, and if no other conditions have been violated, the Board or its representatives may, upon written request from the Petitioner, extend the probation period up to one year, without further hearing, in order to comply with this condition. During the extension, all original conditions of probation will apply.

Except as provided above, the Board shall not renew or reinstate the license of any Petitioner who has failed to pay all the costs as directed in a Decision.

**15. LICENSE SURRENDER**

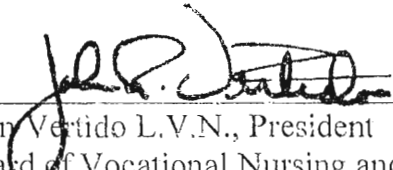
During probation, if Petitioner ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the conditions of probation, Petitioner may surrender his license to the Board. The Board reserves the right to evaluate Petitioner's request and to exercise its discretion whether to grant the request without further hearing. Upon formal acceptance of the tendered license, Petitioner will no longer be subject to the conditions of probation.

**16. VIOLATION OF PROBATION**

If Petitioner violates the conditions of his probation, the Board, after giving the Petitioner notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (denial/revocation/suspension) of the Petitioner's license. If during probation, an accusation or petition to revoke probation has been filed against the Petitioner's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the Petitioner's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

DATED: December 8, 2010

EFFECTIVE DATE: December 23, 2010

  
\_\_\_\_\_  
John Vertido L.V.N., President  
Board of Vocational Nursing and  
Psychiatric Technicians